

REMARKS

Reconsideration of the present application is respectfully requested.

Claims 1-12 and 15-28 are pending in the application. It is gratefully acknowledged that Claims 5-12 and 20-28 have been allowed, and that Claim 4 has been objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form to include all of the limitations of the base claim and any intervening claims. In the Office Action, the rejections were as follows: Claims 1, 2, 15, 16 and 19 were rejected under 35 U.S.C. §102(b) as being anticipated by Galand et al. (U.S. Patent No. 6,188,698); and, Claims 3, 17 and 18 were rejected under 35 U.S.C. §103(a) as unpatentable over Galand et al.

Regarding the rejection of independent Claims 1 and 15, the Examiner states that Galand et al. anticipates each of the claims. In response, Applicants respectfully traverse. Specifically, Galand et al. discloses a multiple-criteria queueing and transmission scheduling system for multimedia networks. Each of Claims 1 and 15 recites “determining a parameter” and “calculating a value”. The Examiner cites the color determination of Galand et al. as disclosing **both** of these recitations the claims. Only one determination and calculation is performed by Galand et al. and cannot be used to anticipate both the “determining a parameter” and “calculating a value” of the claims as, by definition and usage, the “parameter” is not equivalent to the “value”.

In addition, Galand et al., is directed to providing a queueing and transmission scheduling system and method for use in a multimedia network that ensures a suitable quality of service for a wide range of applications. Taught in Galand et al. is classifying each of the plurality of connections as red or green depending on whether said each connection transmits excess traffic, so as to achieve a behavior classification of plurality of connections. Red indicates that excess packets are provided, while green indicates that no excess packets are provided. In order to perform the above, Galand et al. compares a COUNT(i) with a predetermined threshold value Red_Thr. In other words, Galand et al. teaches classifying each of the plurality of connections

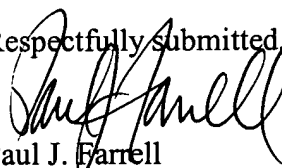
according to whether the connection is transmitting excess traffic. Simply put, Galand et al. teaches classifying connections based on the amount of the traffic. In contrast, the present claims are directed to classifying the characteristics of the service class of the transmitted packet data.

Accordingly, it is respectfully submitted that Claims 1, 2, 15, 16 and 19 are not, and cannot be, anticipated by Galand et al. Withdrawal of the §102(b) rejection of Claims 1, 2, 15-16 and 19, therefore, is respectfully requested. Furthermore, in view of at least these distinctions as outlined above, it is respectfully submitted that the §103(a) rejection of Claims 3, 17 and 18 should also be withdrawn. Withdrawal of the same is respectfully requested.

Independent Claims 1, 5, 8, 15, 20 and 24 are believed to be in condition for allowance. Without conceding the patentability per se of dependent Claims 2-4, 6-7, 9-12, 16-19, 21-23 and 25-28, these are likewise believed to be allowable by virtue of their dependence on their respective independent claims. Accordingly, reconsideration and withdrawal of the rejections of dependent Claims 2-4, 6-7, 9-12, 16-19, 21-23 and 25-28 is respectfully requested.

Accordingly, all of the claims pending in the Application, namely, Claims 1-12 and 15-28, are believed to be in condition for allowance. Should the Examiner believe that a telephone conference or personal interview would facilitate resolution of any remaining matters, the Examiner may contact Applicants' attorney at the number given below.

Respectfully submitted,


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